



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Class Deviation

PCD 22-01

November 22, 2022

Class Deviation from the Federal Acquisition Regulation (FAR) to Provide Time for the SAM.gov System Implementation Required by FAC 2022-08

(NASA Case 2022-N021)

PURPOSE: To affect a class deviation from the FAR to utilize the new policies in Federal Acquisition Circular (FAR) 2022-08 (87 FR 58218) published on September 23, 2022, with an effective date of October 28, 2022. This deviation allows agencies to use the new policies while the Integrated Award Environment (IAE) is working to implement the new policies in the Federal e-business systems (*i.e.*, the System for Award Management (SAM)).

GUIDANCE: The FAR cases in FAC 2022-08 make changes to entity representations in SAM (*i.e.*, FAR provisions 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services, at paragraph (c) and 52.219-1, Small Business Program Representations, also at paragraph (c)). On October 28, 2022, the new version of these two provisions appeared in the eCFR and acquisition.gov but do not appear in SAM.gov. Until the SAM.gov system is updated, Contracting Officers cannot rely on certain representations in SAM. Therefore, in the interim, Contracting Officers should follow the guidance provided in this PCD.

ACTION REQUIRED BY CONTRACTING OFFICERS: Effectively immediately, Contracting Officers shall follow the alternate procedures prescribed herein until such time the SAM.gov is updated.

Contracting Officer Procedures

Offer-by-Offer Representations for Small Business Joint Ventures and Service Disabled Veteran-Owned Small Business (SDVOSB) Joint Ventures

Beginning October 28, 2022, the FAR provisions 52.212-3 and 52.219-1, at paragraph (c), will include new representations for small business joint ventures and service-disabled veteran-owned (SDVOSB) small business joint ventures. SAM.gov will not include the new representations until the changes are implemented by IAE. Therefore, Contracting Officers cannot use SAM.gov for these two new joint venture representations in SAM. Under the existing authority of FAR 52.204-8(d) and 52.212-3(b), offerors may make representations on an offer-by-offer basis. As a best practice, it is highly recommended that CO's:

- a. Include a statement in solicitation notices to remind small business joint ventures to submit their socioeconomic status as a small business joint venture or a SDVOSB joint venture as provided in 52.212-3(c) and 52.219-1(c) on an offer-by-offer basis in accordance with the authority of FAR 52.204-8(d) and 52.212-3(b); and
- b. Check for these offer-by-offer representations in accordance with FAR 4.1201(c).

These procedures are not necessary for 8(a) or HUBZone joint ventures because representations for those joint ventures already appear in SAM.gov.

- c. **Where to check status as a Women-Owned Small Business (WOSB) or Economically Disadvantaged Women-Owned Small Business (EDWOSB) concern eligible under the WOSB Program**

Within the WOSB Program: Beginning October 28, 2022, FAR 19.1503(b) will be updated to require offerors to be designated in SAM as a certified WOSB or EDWOSB to be eligible for WOSB or EDWOSB set-aside and sole-source awards under the WOSB Program. The SAM.gov representation for certified WOSB and EDWOSB concerns requires system updates that will not be available on October 28, 2022. Therefore, Contracting Officers must deviate from the FAR and temporarily use SBA's Dynamic Small Business Search (DSBS) to determine the certification status of WOSB or EDWOSB concerns, rather than checking the status on SAM.gov.

Outside the WOSB Program: For self-representing women-owned small businesses for acquisitions outside of the WOSB Program, the representations in SAM.gov can still be used.

Joint ventures within the WOSB Program: Additionally, FAR 19.1503(d) will be updated to require Contracting Officers to use SAM.gov to verify a joint venture's eligibility as a certified WOSB or EDWOSB under the WOSB Program. Per 13 CFR 127.506, at least one participant of the joint venture must be a certified WOSB or EDWOSB in the WOSB Program for the joint venture to qualify as a certified WOSB or EDWOSB joint venture. Therefore, Contracting Officers must deviate from the FAR and temporarily use SBA's DSBS to verify at least one party to the joint venture is certified as a WOSB or EDWOSB concern, rather than checking SAM.gov.

d. **Where to check status as a HUBZone Small Business Concern**

Beginning October 28, 2022, FAR 19.1303(b) will be updated to require firms to be designated in SBA's DSBS and SAM.gov as a HUBZone small business concern to be eligible for HUBZone preferences. SAM will continue to reflect the current HUBZone certification status from SBA. Therefore, even though the language of the representation in SAM.gov will not align with the language in the updated FAR 52.212-3(c) and 52.219-1(c) provisions, the SAM.gov representation for HUBZone certification is accurate and may be used to determine the status of HUBZone small businesses.

Contracting Officers should continue using SAM.gov and SBA's DSBS to determine the status of HUBZone small businesses.

EFFECTIVE DATE: This PCD is effective as dated and shall remain in effect until SAM.gov is updated, or until this class deviation is otherwise rescinded or extended.

PROVISION AND CLAUSE CHANGES: None.

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